

BEFORE THE
Federal Communications Commission
WASHINGTON, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Advanced Television Systems and
Their Impact upon the Existing
Television Broadcast Service

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MM Docket No. 87-268

To: The Commission

COMMENTS OF
ASSOCIATED PUBLIC-SAFETY COMMUNICATIONS OFFICERS, INC.

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November 16, 1992

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COMMENTS OF
ASSOCIATED PUBLIC-SAFETY COMMUNICATIONS OFFICERS, INC.

Associated Public-Safety Communications Officers, Inc. ("APCO"), hereby submits the following comments in response the Second Further Notice of Proposed Rulemaking ("Second Further Notice") in the above-captioned rulemaking, FCC 92-332, released August 14, 1992, in which the Commission proposes new UHF channel allotments for all television broadcasters to provide Advanced Television (ATV) Service.

I. INTRODUCTION AND SUMMARY

APCO is the nation's oldest and largest public safety communications organization representing the interests of all elements of the public safety land mobile radio community. APCO serves as the FCC's certified frequency coordinator for all Part 90 Police, Local Government and 420 MHz and 800 Mhz Public Safety channels. APCO has over 9,500 members involved in the management and operation of radio communications systems for police, fire, local government,

emergency medical, forestry conservation, highway maintenance, and other public safety services.

The Commission's rules currently allow land mobile radio operations on UHF Channels 14-20 (470-512 MHz) in thirteen major metropolitan areas.^{1/} Public safety agencies are among the most significant users of these UHF channels. Licensees include the Los Angeles County Sheriff's Department, Los Angeles Police Department, New York City Police Department and dozens of other public safety agencies who use these frequencies for emergency mobile radio operations. There are also vital public safety communications systems operating throughout the country in the 450-470 MHz band, which is immediately adjacent to UHF Television Channel 14, and in the 806-890 MHz band, which is immediately adjacent to UHF Television Channel 69.

APCO is deeply concerned that some of the proposed ATV allotments would cause serious destructive interference to existing land mobile communications systems in the UHF band that are critical to the protection of life and property. APCO is particularly troubled by those ATV allotments that are short-spaced to adjacent and co-channel public safety land mobile facilities.^{2/}

^{1/}47 C.F.R. §90.301-315.

^{2/} For the reasons stated in the Comments of the Land Mobile Communications Council ("LMCC"), APCO has no objection to the proposed reduction in standard mileage separations between ATV and land mobile operations, provided that ATV operates at the reduced power levels set forth in the Notice.

APCO also opposes the proposed allotment of Channel 16 in New York for ATV. In addition to causing interference to land mobile operations on adjacent UHF Channel 15, adoption of this ATV allotment would hinder a pending request from several New York area public safety agencies to reallocate Channel 16 for land mobile use to alleviate serious spectrum shortages.

Any UHF television channels that prove impractical for ATV because of interference problems (including, but not limited to, those discussed herein) should be reallocated immediately for further land mobile sharing.

Finally, UHF allotments for ATV must be premised on guarantees that broadcasters' current NTSC channels on the VHF band will be relinquished as soon as possible to alleviate current and future spectrum shortages in land mobile and other radio services.

II. THE FCC MUST GIVE PRIORITY TO EXISTING PUBLIC SAFETY LAND MOBILE OPERATIONS IN THE UHF BAND.

The Commission seeks comments as to the "appropriate balance between ATV and land mobile interests" regarding potential interference caused by the proposed short-spaced ATV allotments. Second Further Notice at ¶47. The answer to that inquiry should be obvious. Pre-existing land mobile licensees, especially public safety licensees, must be given priority and protected against harmful interference. ATV broadcasters must be required to make any necessary adjustments, not critical law enforcement and other public safety agencies already using the band.

Congress has repeatedly mandated that "public safety consideration should be a top priority when frequency allocation decisions are made." House Rep. No. 98-356, 98th Cong., 1st Sess. 27 (1983), reprinted in 1983 U.S. Code Cong. & Admin. News 2219, 2237 (emphasis added). As the United States Court of Appeals explained in National Association of Broadcasters v. FCC, 740 F.2d 1190, 1213-14 (D.C. Cir. 1984), Section 1 of the Communications Act, subsequent amendments to the Act, and the underlying legislative history thereto, make clear that the Commission must allocate spectrum in a manner that promotes the "safety of life and property." 47 U.S.C. §151. The Court noted that the legislative history of the Communications Amendments Act of 1982 states that

"radio services which are necessary for the safety of life and property deserve more consideration in allocating spectrum than those services which are more in the nature of convenience or luxury." S.Rep. No. 191, 97th Cong., 2d Sess. 14 (1981), reprinted in [1982] U.S. Code Cong. & Ad. News 2237, 2250.

740 F.2d at 1213.^{3/}

Surely, protecting public safety must be given priority over providing a second 6 MHz channel to television broadcasters. ATV may be a desirable goal, but excitement over its potential (even if valid) must not be allowed to

^{3/0} See also 138 Cong. Rec. S10350-10351 (July 27, 1992) (Statement of Senator Bumpers) (during debate over amendments to the FY1993 Appropriations Bill for Commerce, Justice, and State, the Judiciary and Related Agencies).

steamroll over more critical public safety communications needs and operations.

III. THE FCC MUST REJECT PROPOSED ATV ALLOTMENTS THAT ARE SHORT-SPACED TO PUBLIC SAFETY LAND MOBILE FACILITIES.

A. Adjacent "Short-Spaced" Channels

The Commission has proposed ATV allotments that are "short-spaced" to existing adjacent land mobile channels in the New York, Los Angeles, and Philadelphia areas. These allotments are as follows:

<u>Proposed ATV</u>	<u>Current Land Mobile</u>
New York 16	15 (New York area)
Riverside, CA 15	14 & 16 (Los Angeles area)
San Bernardino 19	20 (Los Angeles area)
Bethlehem, PA 18	19 (Philadelphia area)

Though referred to by the Commission as "short-spaced" adjacent channels, these facilities could actually be co-located, as is obviously the case for New York. In Los Angeles area, UHF Channels 14 and 16 are authorized for land mobile use anywhere within a 50-mile radius of the geographic center of Los Angeles. The proposed Riverside ATV site for Channel 15 is located well within that 50-mile radius (and within Los Angeles County).

Experience has demonstrated that UHF television stations co-located or near adjacent channel land mobile facilities will cause objectionable interference for

both.^{4/} Thus, the Commission has adopted regulations imposing restrictions on UHF Television Channels 14 and 69 which effectively prevent co-location by prohibiting the field strength of the Channel 14 or 69 television signal from exceeding 17 dBu at the adjacent channel land mobile site.^{5/} Unfortunately, the Second Further Notice does not propose field strength or other interference protections for ATV stations operating on UHF channels 14-20.

The proposed ATV allotments listed above must be rejected, or at least made subject to stringent interference guidelines. Otherwise, critical public safety communications will be compromised to the detriment of the safety of life and property.

B. Co-Channel ATV Allotment

UHF Channel 16 has been allocated in the Los Angeles area exclusively for public safety land mobile use.^{6/} These Channel 16 frequencies provide the core of the mobile radio communications systems of the Los Angeles County Sheriff's Department, Los Angeles Police Department and other public safety agencies. Nevertheless, the FCC has

^{4/} See Resolution of Interference Between UHF Channels 14 and 69 and Adjacent-channel Land Mobile Operations (MM Docket 87-465), 6 FCC Rcd 5148 (1991); Broadcast Corp. of Georgia, 96 FCC 2d 901 (1984).

^{5/} 47 C.F.R. §73.687(e)(3) and (4). Motorola has filed (and APCO has supported) a Petition seeking more stringent interference protections. See Petition of Motorola for Partial Reconsideration in MM Docket 87-465 (filed October 17, 1991).

^{6/} 47 C.F.R. 90.303(a)(n.4).

proposed to allot Channel 16 for ATV in San Diego, at a site that is just 102 miles from the geographic center of Los Angeles, and as little as 73 miles from actual Channel 16 land mobile radio base stations in Los Angeles County.

The Comments of the County of Los Angeles and LMCC provide extensive engineering data to demonstrate that the proposed Channel 16 ATV allotment in San Diego would cause serious, destructive interference to vital public safety communications operations. The problem is exacerbated by the over-water path between the San Diego site and much of the Los Angeles area (especially Catalina Island), and the unusual "ducting" propagation problem that occurs in Southern California. The short-spaced co-channel ATV allotment in San Diego must be rejected.

IV. THE COMMISSION SHOULD RE-EVALUATE THE PROPOSED ATV ALLOTMENTS ON CHANNELS 14 AND 69.

In the past, Commission has made relatively few television channel allotments on UHF Channels 14 and 16 because of the interference problems with adjacent channel land mobile licensees that are described above. Yet, the Second Further Notice includes 64 new allotments on UHF Channels 14 and 69, including allotments in or near major metropolitan areas with extensive adjacent channel land mobile operations.^{2/}

These new ATV allotments must be subject to the same interference protections that apply to existing Channel 14 and 69 stations. The Commission does not appear to have taken this fact into account, as the current 17 dBu field strength limits would prevent many of the proposed allotments from being implemented. In any event, APCO urges that the more stringent 11 dBu standard proposed by Motorola in its pending Petition for Reconsideration is a more appropriate standard and will better prevent interference to vital adjacent channel public safety land mobile radio operations.

^{2/} E.g., Baltimore, Sacramento, Chicago, New Orleans, Pittsburgh, Dallas, Houston, and Los Angeles.

V. THE COMMISSION MUST NOT ALLOT CHANNEL 16 FOR ATV SERVICE IN NEW YORK.

The Second Further Notice includes an allotment of UHF Channel 16 for ATV in New York. As discussed above, this creates a potential for serious interference to existing public safety land mobile operations on adjacent UHF Channel 15. Moreover, the proposed allotment should be set aside in favor of a pending request of New York area public safety agencies for a waiver of the Commission's rules to use Channel 16 for public safety land mobile radio. As described in great detail in the Joint Request for Waiver of the New York City Police Department, et al., there is a life threatening shortage of public safety radio frequencies in New York. All available frequencies (including frequencies through the National Public Safety Plan) have long ago been allocated. Yet, demands on public safety agencies for law enforcement, fire, emergency medical and other services are increasing daily, placing strains on overburdened communications systems that lack sufficient radio spectrum. Clearly, there is a far greater need for public safety frequencies in New York than for an ATV allotment on Channel 16.

VI. THE COMMISSION SHOULD NOT GIVE UP ON LAND MOBILE USE OF UHF CHANNELS IN DETROIT AND CLEVELAND.

The Commission's current rules contemplate land mobile radio use of UHF Channels 15 and 16 in Detroit, and 14 and 15 in Cleveland. Implementation of those allocations has been stalled, however, because of the absence of appropriate

agreements with Canada. Now, the Commission appears to have given up the fight, and proposes to take back the channels for ATV. APCO strongly opposes this proposal as it ignores serious current and future land mobile spectrum shortages in Southeastern Michigan and Northern Ohio.

VII. UHF CHANNELS NOT USED FOR ATV SHOULD BE MADE AVAILABLE FOR FURTHER LAND MOBILE SHARING.

As explained above, many of the proposed ATV allotments are unworkable because of potential interference to existing land mobile operations. Other problems (such as ATV-ATV interference) will no doubt eliminate other proposed allotments. The Commission should take all of those UHF channels for which ATV is inappropriate and finally allow for further land mobile sharing of the UHF band on those channels. Seven years ago, the Commission proposed further land mobile use of the UHF band. However, that proceeding has been held in abeyance for five years pending the Commission's allocation of spectrum for ATV. Now that the Commission is finally moving forward on the ATV allocation and allotments, it should re-open the further sharing docket and allow unused and underutilized UHF spectrum to be reallocated to alleviate land mobile spectrum shortages.

**VIII. STEPS MUST BE TAKEN TO INSURE THAT TELEVISION
BROADCASTERS RELINQUISH THEIR NTSC CHANNELS IN A
TIMELY FASHION.**

APCO urges that, if the Commission adopts its all-UHF allotment for ATV, all possible steps should be taken to insure that television broadcasters relinquish their NTSC channels as soon as possible. As the Commission is well aware, there is increasing demand for radio frequencies for a variety of important non-broadcasting services. In particular, public safety agencies throughout the country need additional spectrum to satisfy the growing demand for public safety communications. The VHF channels currently monopolized by television broadcasters would be particularly useful for area-wide communications systems operated by state police and forestry and wildlife agencies.

CONCLUSION

For the reasons discussed above, the Commission should reject proposed UHF channel allotments that will prevent or interfere with vital public safety communications.

Respectfully submitted,

ASSOCIATED PUBLIC-SAFETY
COMMUNICATIONS OFFICERS, INC.

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